

MONTANA LEGISLATIVE HISTORY

Chapter 57 19 91

Bill H _____ S 81

Original bill & history ☒ C

H. Committee on Taxation

Hearing Date(s) Feb 02 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 02 ☒ C

S. Committee on Taxation

Hearing Date(s) Jan 13 ☒ C

Jan 22 ☒ C

_____ ☐ C

_____ ☐ C

Jan 22 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SB 79 INTRODUCED BY FRITZ

ALLOW APPOINTMENT OF AT LEAST FIVE MEMBERS TO COUNTY
MUSEUM BOARD

1/12 INTRODUCED
1/14 REFERRED TO LOCAL GOVERNMENT
1/14 FIRST READING
1/22 HEARING
2/21 TABLED IN COMMITTEE

SB 80 INTRODUCED BY WEEDING

REVISING PENALTIES FOR OVERWEIGHT VEHICLE
BY REQUEST OF DEPARTMENT OF HIGHWAYS

1/12	INTRODUCED		
1/14	REFERRED TO HIGHWAYS & TRANSPORTATION		
1/14	FIRST READING		
1/14	FISCAL NOTE REQUESTED		
1/17	HEARING		
1/21	FISCAL NOTE RECEIVED		
1/22	FISCAL NOTE PRINTED		
1/24	COMMITTEE REPORT—BILL PASSED		
1/25	2ND READING PASSED	49	0
1/26	3RD READING PASSED	45	1
	TRANSMITTED TO HOUSE		
1/26	FIRST READING		
1/26	REFERRED TO HIGHWAYS & TRANSPORTATION		
3/05	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	98	2
3/14	3RD READING CONCURRED	100	0
	RETURNED TO SENATE		
3/18	SIGNED BY PRESIDENT		
3/19	SIGNED BY SPEAKER		
3/19	TRANSMITTED TO GOVERNOR		
3/21	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 122		

EFFECTIVE DATE: 10/01/91

SB 81 INTRODUCED BY GROSFIELD, ET AL.

CLARIFY ISSUANCE OF REVISED ASSESSMENTS ON CENTRALLY
ASSESSED PROPERTY
BY REQUEST OF DEPARTMENT OF REVENUE

1/14	INTRODUCED		
1/14	REFERRED TO TAXATION		
1/14	FIRST READING		
1/14	FISCAL NOTE REQUESTED		
1/17	FISCAL NOTE RECEIVED		
1/18	HEARING		
1/18	FISCAL NOTE PRINTED		
1/22	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/23	2ND READING PASSED	50	0
1/24	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
1/25	FIRST READING		
1/25	REFERRED TO TAXATION		
2/07	HEARING		
2/07	COMMITTEE REPORT—BILL CONCURRED		
2/09	2ND READING CONCURRED	94	0
2/11	3RD READING CONCURRED	99	1
	RETURNED TO SENATE		
2/14	SIGNED BY PRESIDENT		

2/14 SIGNED BY SPEAKER
 2/14 TRANSMITTED TO GOVERNOR
 2/19 SIGNED BY GOVERNOR
 CHAPTER NUMBER 37

EFFECTIVE DATE: 2/19/91

SB 82 INTRODUCED BY VAN VALKENBURG, ET AL.

DIVIDE FUNDING FOR SCHOOL TRANSPORTATION BETWEEN
 STATE AND COUNTY AID

BY REQUEST OF SCHOOL FUNDING IMPLEMENTATION,
 LEGISLATIVE OVERSIGHT COMMITTEE ON

1/14	INTRODUCED		
1/14	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/14	FISCAL NOTE REQUESTED		
1/18	HEARING		
1/18	FISCAL NOTE RECEIVED		
1/18	FISCAL NOTE PRINTED		
2/14	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/15	2ND READING PASSED AS AMENDED	49	0
2/16	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
2/18	FIRST READING		
2/18	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/12	HEARING		
3/12	FISCAL NOTE REQUESTED		
3/18	FISCAL NOTE RECEIVED		
3/19	FISCAL NOTE PRINTED		
4/02	COMMITTEE REPORT—BILL CONCURRED		
4/03	REREFERRED TO APPROPRIATIONS		
4/04	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/05	REVISED FISCAL NOTE REQUESTED		
4/06	REVISED FISCAL NOTE PRINTED		
4/06	REVISED FISCAL NOTE RECEIVED		
4/06	2ND READING CONCURRED	64	24
4/06	ON MOTION RULES SUSPENDED TO PLACE ON 3RD READING THIS DAY		
4/06	3RD READING CONCURRED	71	25
	RETURNED TO SENATE WITH AMENDMENTS		
4/11	SECOND REVISED FISCAL NOTE REQUESTED		
4/12	SECOND REVISED FISCAL NOTE RECEIVED		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	3RD READING AMENDMENTS CONCURRED	48	1
4/22	SIGNED BY PRESIDENT		
4/23	SIGNED BY SPEAKER		
4/23	TRANSMITTED TO GOVERNOR		
4/29	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 711		

EFFECTIVE DATE: 7/01/91

SB 83 INTRODUCED BY JERGESON, ET AL.

PROVIDE THAT INTEREST EARNED ON LICENSE MONEY
 RECEIVED BY THE DEPARTMENT OF FISH, WILDLIFE,
 AND PARKS BE DEPOSITED IN THE STATE SPECIAL
 REVENUE FUND TO THE CREDIT OF THE DEPARTMENT

BY REQUEST OF DEPARTMENT OF FISH, WILDLIFE, & PARKS

1/14 INTRODUCED
 1/15 REFERRED TO FINANCE & CLAIMS
 1/15 FIRST READING
 1/15 FISCAL NOTE REQUESTED
 1/21 FISCAL NOTE PRINTED
 1/21 FISCAL NOTE RECEIVED
 1/28 HEARING
 1/29 COMMITTEE REPORT—BILL PASSED

INTRODUCED BY GROSFIELD, GILBERT, HALLIGAN
BY REQUEST OF THE DEPARTMENT OF REVENUE

JANUARY 14, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
JANUARY 22, 1991	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 23, 1991	PRINTING REPORT.
	SECOND READING, DO PASS.
JANUARY 24, 1991	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 50; NOES, 0.
	TRANSMITTED TO HOUSE.

JANUARY 25, 1991	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
FEBRUARY 7, 1991	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
FEBRUARY 9, 1991	SECOND READING, CONCURRED IN.
FEBRUARY 11, 1991	THIRD READING, CONCURRED IN. AYES, 99; NOES, 1.
	RETURNED TO SENATE.

FEBRUARY 11, 1991

RECEIVED FROM HOUSE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 SENATE BILL NO. 81
 2 INTRODUCED BY Griffith
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE
 6 DEPARTMENT OF REVENUE'S AUTHORITY TO ISSUE REVISED
 7 ASSESSMENTS FOR CENTRALLY ASSESSED PROPERTY TO THE PERSON OR
 8 ENTITY THAT OWNED THE PROPERTY AT THE TIME IT ESCAPED
 9 ASSESSMENT, WAS ERRONEOUSLY ASSESSED, OR WAS OMITTED FROM
 10 TAXATION; AND AMENDING SECTION 15-8-601, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 15-8-601, MCA, is amended to read:

14 "15-8-601. Assessment revision -- conference for
 15 review. (1) (a) Whenever Except as provided in subsection
 16 (1)(b), whenever the department of revenue discovers that
 17 any taxable property of any person has in any year escaped
 18 assessment, been erroneously assessed, or been omitted from
 19 taxation, the department may assess the same provided the
 20 property is under the ownership or control of the same
 21 person who owned or controlled it at the time it escaped
 22 assessment, was erroneously assessed, or was omitted from
 23 taxation. All such revised assessments must be made within
 24 10 years after the end of the calendar year in which the
 25 original assessment was or should have been made.

1 (b) Within the time limits set by 15-23-116, whenever
 2 the department discovers property subject to assessment
 3 under Title 15, chapter 23, that has escaped assessment,
 4 been erroneously assessed, or been omitted from taxation,
 5 the department may issue a revised assessment to the person,
 6 firm, or corporation who owned the property at the time it
 7 escaped assessment, was erroneously assessed, or was omitted
 8 from taxation, regardless of the ownership of the property
 9 at the time of the department's revised assessment.

10 (2) Whenever the department or its agent proposes to
 11 increase the valuation of locally assessed property above
 12 the value reported by the taxpayer under 15-8-301, the
 13 action of the department is subject to the notice and
 14 conference provisions of this section.

15 (3) (a) Notice of revised assessment pursuant to this
 16 section shall be made by the department or its agent by
 17 postpaid letter addressed to the person interested within 10
 18 days after the revised assessment has been made. The notice
 19 shall include opportunity for a conference on the matter, at
 20 the request of the person interested, not less than 15 or
 21 more than 30 days after notice is given.

22 (b) An assessment revision review conference is not a
 23 contested case as defined in the Montana Administrative
 24 Procedure Act. The department shall keep minutes in writing
 25 of each assessment review conference, which are public

1 records.

2 (c) Following an assessment review conference or
3 expiration of opportunity therefor, the department shall
4 order such assessment as it considers proper. Any party to
5 the conference aggrieved by the action of the department may
6 appeal directly to the state tax appeal board within 30 days
7 or, if the property is locally assessed, may appeal to the
8 county tax appeal board at its next meeting.

9 (4) The department must record in a book to be kept for
10 that purpose all changes, corrections, and orders made by it
11 and must direct its agent to enter upon the assessment book
12 all changes and corrections made by it.

13 (5) Immediately upon receipt of a revised assessment,
14 the county official possessing the assessment roll book
15 shall enter the revised assessment. If the revised
16 assessment corrects an original assessment, the previous
17 entry shall be canceled upon order of the department."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0081, as introduced.

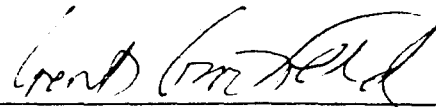
DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the Department of Revenue's authority to issue revised assessments for centrally assessed property to the person or entity that owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation.

FISCAL IMPACT:

The proposal was originally intended to clarify statutory language. Since then, a recent court ruling has upheld Department of Revenue's interpretation of statute. This legislation is intended to clearly state current law.

 1-17-91
ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 1-18-91
LORENTS GROSFIELD, PRIMARY SPONSOR DATE
Fiscal Note for SB0081, as introduced **SB 81**

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on January 18, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused:

John Harp (R)

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SENATE BILL 86

Presentation and Opening Statement by Sponsor:

Senator Eck, District 40, sponsor, said the bill was introduced at the request of the Department of Revenue. "Interim production" is stricken throughout the bill because the interim has passed.

Proponents' Testimony:

Denis Adams, Director, Department of Revenue, indicated this is a housekeeping bill. Interim was defined as production from a well that began interim production after June 30, 1985, and before April 1, 1987. The only reason to make a distinction

HEARING ON SENATE BILL 81Presentation and Opening Statement by Sponsor:

Senator Grosfield, District 41, sponsor, said the bill was introduced at the request of the Department of Revenue. The bill places into the statute the law as recently determined by the Montana Supreme Court in the case of the Department of Revenue versus Kaiser Cement. It says that centrally assessed taxpayers cannot avoid taxes by selling their property. He noted there is no change in the five year statute of limitations.

Proponents' Testimony:

Denis Adams, Director, Department of Revenue, said the Supreme Court decision was handed down in December, 1990. He noted DOR lost the decision at the State Tax Appeals Board, appealed to District Court where they were successful, Kaiser then appealed to the Montana Supreme Court where the lower court decision was upheld in favor of DOR. Taxpayers who own centrally assessed property notify DOR of the values which are then subject to taxes. If DOR finds, in the course of an audit, that adjustments are needed, DOR then can go back against the former owner of the property. The sale of the property does not absolve the former owner of the tax liability levied by DOR. This decision only applies to centrally assessed property.

John Alke, MDU Resources Group, Inc. expressed support for the bill. He pointed out a related issue involving the statute of limitation. The legislature must clearly specify that omitted assessments or centrally assessed property are under 15-23-116 instead of 15-8-601 in order to clear up any question that may apply to this statute. The Supreme Court said the five year statute of limitation applies, but the two statutes do not match. He asked for a clarification on the five year statute.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe said it was his understanding that 15-23-116 is the five year statute that applies to centrally assessed property. He asked for an explanation of the issue in the Kaiser case.

Senator Eck, District 40, sponsor, said the bill was introduced at the request of the Department of Revenue. It also addresses issues that have come up in appeals and court

Dave Woodgerd, Chief Counsel, Department of Revenue, explained that Kaiser reported the value and tonnage of limestone mined as per DOR policy. They then sold the property. An audit later determined the report was inaccurate and DOR sought to recover the amount in dispute. Kaiser maintained they did not have to pay as they had sold the property. The District Court said that DOR still had the authority to levy the tax even though Kaiser had sold the property. The bill is simply putting that decision into the statutes.

He pointed out that a regular taxpayer is assessed by the Department and DOR does not have a right to go back to them for additional taxes after the property has been sold. Centrally assessed taxpayers submit a report to DOR and DOR then certifies a value based on that report.

Senator Towe asked if both the former owner and new owner would be attached if it is necessary to attach a lien.

Mr. Woodgerd replied the former owner would be attached. The new owner has protection under the lien statutes.

Senator Towe wondered if specific language was needed to specify the liability of the former owner.

Mr. Woodgerd said it was the opinion of DOR that the liability is inherent in the language of the bill.

Senator Van Valkenburg questioned the adequacy of the time limit in 15-23-116.

Mr. Alke said he felt it was adequate.

Senator Thayer asked if there is an either/or option as to which owner of the property DOR would assess.

Mr. Woodgerd replied the statute is clear that the person or corporation that owned the property at the time of the assessment is responsible for payment.

Closing by Sponsor:

Senator Grosfield closed.

HEARING ON SENATE BILL 85

Presentation and Opening Statement by Sponsor:

Senator Eck, District 40, sponsor, said the bill was introduced at the request of the Department of Revenue. It also addresses issues that have come up in appeals and court

DATE 7/13/91

COMMITTEE ON

VISITORS' REGISTER

SB 81 85 86

[illegible]

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/18/91

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN			
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP			X
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 18th day of January, 1991.

Name: John Allen

Address: 73 Cleveland

Telephone Number: 442-3690

Representing whom?

MDY

Appearing on which proposal?

SB 81

Do you: Support? ☒ Amend? ☐ Oppose? ☐

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on January 22, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: None

HEARING ON SENATE BILL 96

Presentation and Opening Statement by Sponsor:

Senator Beck, District 24, sponsor, said the bill designates a portion of the lottery revenue for economic development. The money would be distributed back to the county where the money was raised. He referred the members to the fiscal note.

Mr. Adams replied it would have to be looked at on a case by case basis, but he would still have to go after the person who was responsible.

Senator Doherty said he had the same worry as Senator Towe when he was looking at the amendments. But he felt, as Senator Van Valkenburg has said, we need to identify the person who was in on the "scam" and go after him. He felt if the officers have absconded with the funds and the treasurer is unable to pay, the treasurer has not failed to pay. The corporation has failed to pay and the onus is on the corporation.

Senator Towe said the whole purpose of the bill is to make the individual liable.

The motion by Senator Van Valkenburg that SB 70 Do Pass As Amended CARRIED with Senator Towe voting no.

EXECUTIVE ACTION ON SENATE BILL 81

Amendments, Discussion, and Votes:

Senator Harp moved to adopt the amendments as prepared by the Committee Researcher, Jeff Martin (Exhibit #6).

Mr. Martin explained the amendments include an immediate effective date and a retroactive applicability date.

The motion CARRIED with Senators Brown and Gage absent.

Recommendation and Vote:

Senator Harp moved SB 81 Do Pass As Amended. The motion CARRIED with Senators Brown and Gage absent.

EXECUTIVE ACTION ON SENATE BILL 26

Amendments, Discussion, and Votes:

Senator Harp moved the adoption of amendments providing an effective date (Exhibit #7).

The motion CARRIED unanimously.

Senator Towe moved to amend the bill as per the amendments in Exhibit #8. The bill would cut off the months that they have qualified for new

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on February 7, 1991, at
9:00 A.M.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

HEARING ON SB 81

An act clarifying the DOR authority to issue revised assessments.

Presentation and Opening Statement by Sponsor:

SEN. GROSFIELD, Senate District 41, Big Timber, stated SB 81
places in statute a law that has been recently determined by the
Montana Supreme Court. It states that assessed taxpayers cannot
avoid paying taxes by selling their property. The DOR relies on
assessed taxpayers to provide information necessary to determine
taxes on their gross proceeds. If they provide false information

when they sell the property, they should not be relieved of their obligation to pay the tax.

The first page of SB 81 states, whenever the DOR discovers any taxable property of any person who has escaped assessment, the Department can assess the same provided the property is under the ownership or control of the same person who owned or controlled it at the time that it escaped. All revised assessments must be made within 10 years. SB 81 changes this in regards to assessed property. Section (b) of Page 2 states that within the time limits set by 15-23-116 which has a five year statute of limitations. On Page 3, the Senate Taxation Committee has provided an amendment. It says that it is effective upon passage and approval and applies retroactively to the taxable year beginning after December 31, 1990. It makes the time frame applicable to this year.

Proponents' Testimony:

Dave Woodgerd, Chief Council, DOR, said that SB 81 is a DOR bill. He gave background of how the bill came about. It is the result of a problem that DOR had involving the Kaiser Cement Plant. When Kaiser sold their property to AshGrove Cement, during the process of auditing their net proceed returns for the limestone that they mined, Kaiser came back and said they sold the plant and couldn't be assessed the net proceeds taxes. DOR went to the State Tax Appeal Board, and they found in favor of Kaiser. We then took this to District Court and the Supreme Court, and we have ultimately won both cases. SB 81 simply puts in what the Supreme Court ruled in the Kaiser Case into statute, in that, a tax may be assessed despite the fact that you have sold a property. Locally assessed properties would still have the protection. The reason being that these properties are not self-assessing tax.

Ward Shanahan, attorney for Kaiser, had concerns about the bill. His concern relates to the word "clarifying" in the Title. He feels there is an intent to reenact 15-8-601 and change it from its present form. Mr. Woodgerd does not object to changing the word "clarifying" to "amending" because the term is accurate.

Opponents' Testimony:

Ward Shanahan, Attorney, stated he has been going through the drill of centrally assessed property for 25 years. He appeared before the Taxation Committee in 1983 when they enacted 15-23-116. At that time, the legislative history of the statute of limitations relating to centrally assessed property was in a quandary. There was no statute of limitations with respect to centrally assessed property except a generic two year statute of limitation. DOR came before the committee and said that they needed more time than two years so they enacted 15-23-116.

Since then, we have been in a battle as to what 15-8-601 means. On page 2, there is a ten year limit in SB 81. If we are going to clarify something, then we should clarify 15-8-601. If there is a time limit applicable to centrally assessed property, as set forth in 15-23-116, lets make it clear that 158601 no longer applies to centrally assessed property and never did. If it is clear that we clarifying this to make 15-23-116 applicable only to centrally assessed property, then he has no objection to the bill. He is not sure that this is what SB 81 says.

Questions From Committee Members: None

Closing by Sponsor:

SEN. GROSFIELD said the DOR was willing to propose an amendment that is necessary to take care of this problem. He thinks SB 81 is clear in its content.

HEARING ON HB 408

An act exempting mill levies for libraries and museums from the property tax freeze.

Presentation and Opening Statement by Sponsor:

REP. SCHYE, House District 18, Glasgow, stated the Title of HB 408 says it all.

Proponents' Testimony:

Richard Miller, Montana State Librarian, provided written testimony. EXHIBIT 1

Deborah Schlesinger, Legislative Chair, Montana Library Association, provided written testimony. EXHIBIT 2

Gloria Hermanson, Montana Cultural Advocacy, stated libraries and museums in the state are suffering greatly from the lack of funding. Development is at a stand still. To maintain the level of progress, at a time when information has become a major commodity, is impossible. If there was another way for them to gain access to funding for museums and libraries, they would advocate them; however, there are few avenues open for them. Montana can not afford to restrict information in this information age. If we do, the consequences will be dire.

David Pauli, Missoula Public Library, provided written testimony. EXHIBIT 3

William Cochran, South Central Federation of Libraries, provided written testimony. EXHIBIT 4

Discussion:

REP. COHEN spoke on the amendments. He stated the subcommittee went through the technical amendments brought to them by the DOR and made some slight changes. He asked Lee Heiman, Legislative Council, to explain the differences in the amendments. Mr. Heiman said they took exactly what the DOR requested except the DOR wanted the request for a refund to be made within 6 months after the time that the tax was paid. The subcommittee went back to the way the bill was drafted. It said that the request for refund had to be made by January 15 of the year prior to the assessment, and inserted a provision that the payback had to be made in the first quarter of the following year to allow the county to budget for the refund.

Vote: Motion to amend HB 151 carried unanimously.

Motion/Vote: REP. HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 151 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 81

Motion: REP. REAM MOVED SB 81 BE CONCURRED IN.

Motion: REP. O'KEEFE moved the amendment that the word "clarifying" be changed to "amending" on the Title, Page 1, Line 5.

REP. FAGG spoke against the amendment. This is all tied into a lawsuit. Ward Shanahan is representing the company out of Helena. They want to come back and say what the Legislature really intended before. The law was amended not clarified. This is a change in the law.

Motion: REP. O'KEEFE withdrew his motion to amend and the amendment.

Vote: SB 81 BE CONCURRED IN. Motion carried unanimously.

Announcement: CHAIR HARRINGTON said that HB 460 will be sent to the Income/Severance Subcommittee.

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 2/7/71

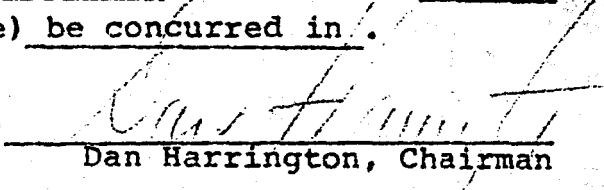
NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓	X	
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓	X	
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓	X	
REP. TOM NELSON	✓	(X)	
REP. MARK O'KEEFE	✓	X	
REP. BOB RANEY	✓	(X)	
REP. TED SCHYE	✓	(X)	
REP. BARRY "SPOOK" STANG	✓	X	
REP. FRED THOMAS	✓	X	
REP. DAVE WANZENRIED	✓	X	

HOUSE STANDING COMMITTEE REPORT

February 7, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 81 (third reading copy -- blue) be concurred in.

Signed: 

Dan Harrington, Chairman

Carried by: Rep. Stang

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Taxation

COMMITTEE

BILL NO.

SB 81

DATE

2/7/91

SPONSOR(S)

Sen Crossfield

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DAVE WOODGERD	DOIR	X	
WARD SHAMAHAN	Attorney		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

SENATE BILL NO. 81

INTRODUCED BY GROSFIELD, GILBERT, HALLIGAN

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE DEPARTMENT OF REVENUE'S AUTHORITY TO ISSUE REVISED ASSESSMENTS FOR CENTRALLY ASSESSED PROPERTY TO THE PERSON OR ENTITY THAT OWNED THE PROPERTY AT THE TIME IT ESCAPED ASSESSMENT, WAS ERRONEOUSLY ASSESSED, OR WAS OMITTED FROM TAXATION; AND AMENDING SECTION 15-8-601, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-8-601, MCA, is amended to read:

"15-8-601. Assessment revision -- conference for review. (1) (a) Whenever Except as provided in subsection (1)(b), whenever the department of revenue discovers that any taxable property of any person has in any year escaped assessment, been erroneously assessed, or been omitted from taxation, the department may assess the same provided the property is under the ownership or control of the same person who owned or controlled it at the time it escaped assessment, was erroneously assessed, or was omitted from taxation. All such revised assessments must be made within

10 years after the end of the calendar year in which the original assessment was or should have been made.

(b) Within the time limits set by 15-23-116, whenever the department discovers property subject to assessment under Title 15, chapter 23, that has escaped assessment, been erroneously assessed, or been omitted from taxation, the department may issue a revised assessment to the person, firm, or corporation who owned the property at the time it escaped assessment, was erroneously assessed, or was omitted from taxation, regardless of the ownership of the property at the time of the department's revised assessment.

(2) Whenever the department or its agent proposes to increase the valuation of locally assessed property above the value reported by the taxpayer under 15-8-301, the action of the department is subject to the notice and conference provisions of this section.

(3) (a) Notice of revised assessment pursuant to this section shall be made by the department or its agent by postpaid letter addressed to the person interested within 10 days after the revised assessment has been made. The notice shall include opportunity for a conference on the matter, at the request of the person interested, not less than 15 or more than 30 days after notice is given.

(b) An assessment revision review conference is not a contested case as defined in the Montana Administrative

REFERENCE BILL

SB 81

1 Procedure Act. The department shall keep minutes in writing
2 of each assessment review conference, which are public
3 records.

4 (c) Following an assessment review conference or
5 expiration of opportunity therefor, the department shall
6 order such assessment as it considers proper. Any party to
7 the conference aggrieved by the action of the department may
8 appeal directly to the state tax appeal board within 30 days
9 or, if the property is locally assessed, may appeal to the
10 county tax appeal board at its next meeting.

11 (4) The department must record in a book to be kept for
12 that purpose all changes, corrections, and orders made by it
13 and must direct its agent to enter upon the assessment book
14 all changes and corrections made by it.

15 (5) Immediately upon receipt of a revised assessment,
16 the county official possessing the assessment roll book
17 shall enter the revised assessment. If the revised
18 assessment corrects an original assessment, the previous
19 entry shall be canceled upon order of the department."

20 NEW SECTION. SECTION 2. EFFECTIVE DATE -- RETROACTIVE

21 APPLICABILITY. [THIS ACT] IS EFFECTIVE ON PASSAGE AND
22 APPROVAL AND APPLIES RETROACTIVELY, WITHIN THE MEANING OF
23 1-2-109, TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1990.

-End-